IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SIXTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Mr. JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 21716 of 2004

Between:

Smt.T. Ramalakshmamma, W/o Pullanna, 41 years, Fair price shop dealer, R/o Chinnakunta village, Ananthapur Mandal.

..... PETITIONER

AND

1. The Joint Collector, Ananthapur.
2. Revenue Divisional Officer, Ananthapur.
3. Mandal Revenue Officer, Ananthapur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus, declaring the proceedings Rc.NO.D1/CS/1562/2004 dated 25.01.2004 of the second respondent is arbitrary, illegal and in violation of principles of natural justice, infraction of provisions enunciated in A.P. Distribution System(Control) Order 2001 and consequently direct the respondents to continue the petitioner as fair price shop dealer of Chinnakunta village, Ananthapur district.

Counsel for the Petitioner:MR.Y.ASHOK RAJ

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following ORDER:

Petitioner was appointed as a fair price shop dealer in respect of Chinnakunta village of Ananthapur mandal and district. Through a show cause notice-cum-suspension order dated 25.10.2004, the second respondent suspended her authorization. The main allegation against the petitioner is that she is not residing in the village and that she has entrusted the management of the fair price shop to her brother-in-law. It is also pointed that the petitioner has been indulging in short supply of the commodities.

Learned counsel for the petitioner submits that the suspension could not have been ordered by the second respondent without issuing any notice, as contemplated under sub-clause (4) of Clause 5 of the A.P. State Public Distribution System (Control) Order, 2001.

Learned Government Pleader for Civil Supplies, on the other hand, submits that since the suspension is pending enquiry, issuance of such a notice is not mandatory.

There is an element of uncertainty as to the necessity to issue a show cause notice at the stage of suspension pending enquiry. There is no uniformity of practice in the State in this regard. While in some districts, the authorities have issued show cause notices before ordering suspension of dealerships pending

enquiry, in other places the orders of suspension are not preceded by any show cause notices. The present case belongs to the third category, wherein the suspension is ordered simultaneously with the issuance of a show cause notice. In *A. Neelima v. Joint Collector, Kurnool,* this Court held that suspension of dealership cannot be ordered as a mater of course without application of mind. The truth or otherwise of the allegations against the petitioner can be considered only at the stage of passing final orders. The petitioner is not accused of diverting any essential commodities.

Having regard to the facts and circumstances of the case, the writ petition is disposed of directing that the suspension of the dealership ordered against the petitioner shall stand stayed and it shall be open to the second respondent to pass appropriate orders in pursuance of the show cause notice duly taking into account the explanation that may be submitted by the petitioner. No order as to costs.

26.11.2004

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To

1. The Joint Collector, Ananthapur.
2. Revenue Divisional Officer, Ananthapur.
3. Mandal Revenue Officer, Ananthapur.
4. Two CCs. to the G.P. for Civil Supplies, High Court of A.P., Hyderabad (OUT).
5. Two CD copies.